



June 25, 2012

Dennis J. McLerran, Regional Administrator  
U.S. Environmental Protection Agency, Region 10  
Regional Administrator's Office, RA-140  
1200 6<sup>th</sup> Avenue, Suite 900  
Seattle, WA 98101

**Re:    *Peer Review Panel Members Selected for the Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska;***  
**Docket ID No. EPA-HQ-ORD-2012-0358**

Dear Dennis:

I write concerning the notice of the Peer Review Panel selection announced in the *Federal Register* of June 5, 2012 (77 *Fed. Reg.* at 33,213), regarding the EPA's "Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska." We intend to provide you with our technical comments on the draft *Assessment* and our suggestions related to the proposed "Charge Questions" for the Panel at a later date. This letter solely concerns our misgivings about the make-up of the Panel. We are sending it now because any resolution of the issues we describe here would be time constrained.

Although we recognize the sensitivity of our two concerns related to the Panel's membership, we feel compelled to share them with you.

First, we note the absence of any apparent significant mining industry experience among the Peer Review Panelists. We believe that to ensure balance, any peer review entity addressing a subject involving mining and feasible mitigation must include some individuals with substantial mining industry engineering and mining-related scientific experience. That has certainly been the case with the several mining and oil and gas study commissions established by the National Academy of Sciences. Second, we are puzzled by the absence of any scientists and engineers with mining experience from State environmental regulatory agencies. In particular, regulatory scientists from the States of Alaska and Idaho, which have experience with modern metal mining and salmon fisheries, would have provided much needed balance and expertise. Third, as you must know, Canada has an extensive metallic mining industry, including mines that operate in successful co-existence with salmon. We respectfully suggest that the Panel would benefit from the participation as a member of a senior Canadian regulatory official who possesses extensive knowledge and information about that highly relevant mining experience.



Most importantly, it is fundamental that Peer Review Panel members should not have past associations with known opponents to, or proponents of, the Pebble Project. We believe that at least one of the proposed panelists has sufficient association with vocal opponents to the Pebble Project that EPA should reconsider his participation on the Panel. We are referring to Mr. David Atkins, with Watershed Environmental, LLC, who is described as having expertise in "mining and hydrology."<sup>1</sup> According to his biography on the LinkedIn website, Mr. Atkins was employed by Stratus Consulting during the years 2002-2005. In 2005, he co-authored with Ann Maest and James R. Kuipers, a report entitled "*Predicting Water Quality at Hard Rock Mines, Methods and Models, Uncertainties and State-of-the-Art*" (published Dec. 8, 2006). A "companion study" to that report was prepared in 2005 and published in 2006 by Maest and Kuipers, and it is entitled "*Comparison of Predicted and Actual Water Quality at Hardrock Mines: the Reliability of Predictions in Environmental Impact Statements*." Both of these companion studies were prepared for and sponsored by Earthworks, an environmental advocacy group which has opposed numerous mining projects in litigation across the United States for many years. Both "companion" reports can be obtained in full on the Earthworks website today. See <http://www.earthworksaction.org/library>. The reports were not published in any peer-reviewed scientific literature and, indeed, our research discloses no scientific reports prepared by Mr. Atkins which have been published in scientific peer-reviewed literature. Notably, Earthworks is prominently and actively opposed to the Pebble Project. See <http://www.earthworksaction.org>.

Of particular concern, Ms. Ann Maest on behalf of Stratus Consulting Inc., of Boulder, Colorado, submitted to U. S. EPA Region 10 a PowerPoint presentation dated February 24-25, 2011, submitted to U.S. EPA Region 10 entitled "*Water Quality Issues Related to the Pebble Project, Alaska*." This presentation purported to offer scientific views; those views were contrary to the Pebble Project. The basis for the presentation by Ms. Maest appears to be the 2006 report co-authored by Kuipers and Maest, although the citation for the source given is Kuipers (2006). See slide 3 of the February 24-25, 2011 PowerPoint as submitted to U.S. EPA.

We believe Mr. Atkins' participation on the Peer Review Panel would inevitably diminish the credibility of its work. It is difficult to accept Mr. Atkins as an independent peer reviewer when Stratus Consulting in 2011 appeared as an opponent to the Pebble Project before U.S. EPA relying on one or both of the companion studies prepared in 2005 and 2006, one of which was co-authored by Mr. Atkins on behalf of Stratus.

Were the situation reversed and a Panel member was selected who participated in an organization that has been a proponent of the Pebble Project, we would expect the same issues to arise and consideration would be given to replacing him or her. We are not

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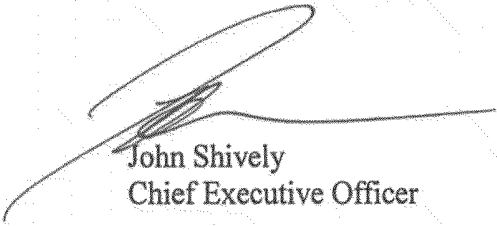
<sup>1</sup> We note that, according to his LinkedIn bio, Mr. Atkins worked for three years, from 2007 to 2010, with "The Mines Group," while he was also with Watershed Environmental. Apparently, The Mines Group provides consulting industry services for mining industry members, but this limited experience would hardly provide in-depth mining industry perspective to this Panel.



asking for special treatment, just equitable treatment that will provide a better opportunity for the Panel to speak with an independent voice.

We request that these issues regarding the Peer Review Panel be fully vetted, and that EPA take appropriate action. We urge that Mr. Atkins be replaced on the Panel, and that the replacement have "mining and hydrology" expertise obtained, in significant part, through mining industry experience.

Respectfully submitted,



John Shively  
Chief Executive Officer